

## REMARKS

### **I. Introduction**

Claims 11-15 and 17-22 are currently pending in the present application after cancellation of claim 16 and the addition of claims 21 and 22. In view of the foregoing amendments and following remarks, it is respectfully submitted that all the pending claims are allowable, and reconsideration is respectfully requested.

### **II. Rejection of claims 11-15 and 17-19 under 35 U.S.C. § 103(a)**

Claims 11-15 and 17-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,008,678 ("Herman") in view of U.S. Patent Application No. 2002/0163478 ("Pleva") and U.S. Patent No. 5,815,112 ("Sasaki").

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements" in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

As amended, claim 11 recites, in relevant parts, “a radar sensor to monitor an area surrounding the motor vehicle without the presence of another radar sensor monitoring the same area, the sensor configured to monitor traffic in a lane adjacent to the motor vehicle, the radar sensor including a phase-controlled antenna and the control device configured to set a plurality of radar lobes having differing geometries, **the control device being further configured to generate different configurations of radar lobes in succession over time by changing at least one of a total number of radar lobes being generated at a particular time and a geometry of the plurality of radar lobes**, the change occurring during vehicle operation.”

In contrast to the above-recited limitations, Herman describes generating a radar signal by **sequential switching** of a transmitting array. The switching causes the radar signal to radiate according to a predetermined pattern, but, as shown in Figures 3-5, the size and number of lobes radiated does not change. Therefore, Herman does not disclose or suggest changing **a total number of radar lobes being generated at a particular time** or changing **a geometry of the plurality of radar lobes**.

Pleva and Sasaki similarly fail to cure the above described deficiencies of Herman. For example, Pleva describes a system in which beams have fixed locations. As described in paragraphs [0061] and [0066] of Pleva, a total of seven **fixed beams** are generated. Although the seven beams are each the result of combining two individual beams of a Butler matrix, the number, the size, and even the location of the seven beams do not change.

Independent of the above, in view of the disparate teachings of Herman and Pleva, it is also respectfully submitted that one skilled in the art would not be motivated to combine Herman and Pleva. Herman describes sequential scanning to change beam location, whereas Pleva describes a plurality of beams having fixed locations. It would not be apparent to one skilled in the art that either of these references would complement the other, because each of these references describes a stand-alone technique for generating radar coverage of a specific area. In both references, the size and number of beams does not change because the respective techniques of each reference are sufficient for the purposes described therein. Therefore, there is no reason whatsoever to combine Herman and Pleva.

Accordingly, the overall teachings of Herman, Pleva and Sasaki do not render obvious claim 11 and its dependent claims 12-15 and 17-19.

**III. Rejection of claim 20 under 35 U.S.C. § 103(a)**

Claim 20 was rejected under 35 U.S.C. § 103(a) as unpatentable over Herman in view of Pleva, Sasaki and U.S. Patent No. 5,793,325 ("Yamada").

Claim 20 depends on claim 11. In addition, Yamada fails to remedy the deficiencies of Herman, Pleva and Sasaki as applied against parent claim 11. Accordingly, the combination of Herman, Pleva, Sasaki and Yamada does not render obvious claim 20.

**IV. New claims 21 and 22**


New claims 21 and 22 do not add any new matter and are supported by the present application, including the specification. Claims 21 and 22 depend from claim 11 and are therefore allowable for the same reasons. Additionally, claims 21 and 22 include further features, which are simply not disclosed nor suggested by the applied references, and are therefore allowable for these further reasons.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all of the pending claims are allowable. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,  
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